

Appeal No. 2023-1922

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

BEARBOX LLC, AUSTIN STORMS,

Plaintiffs - Appellants,

v.

LANCIUM LLC, MICHAEL T. McNAMARA, RAYMOND E. CLINE, JR.,

Defendants - Appellees.

Appeal from the United States District Court for the District of Delaware in
Case No. 1:21-cv-00534, Judge Gregory B. Williams

**UNOPPOSED MOTION OF PLAINTIFFS-APPELLANTS UNDER
FEDERAL CIRCUIT RULE 26(b)(4) FOR A 5-DAY EXTENSION OF TIME
TO FILE THE JOINT APPENDIX TO ALLOW ADDITIONAL TIME TO
RESOLVE CONFIDENTIALITY ISSUES**

Benjamin T. Horton
John R. Labbe
Raymond R. Ricordati, III
Chelsea M. Murray
MARSHALL, GERSTEIN & BORUN LLP
233 South Wacker Drive
6300 Willis Tower
Chicago, IL 60606
(312) 474-6300

*Counsel for Plaintiffs-Appellants
BearBox LLC and Austin Storms*

November 15, 2023

Pursuant to Federal Circuit Rule 26(b)(4), Plaintiffs-Appellants BearBox LLC and Austin Storms (collectively, “BearBox”) respectfully move for a 5-day extension of time to file the Joint Appendix that is currently due today, November 15, 2023. A 5-day extension would extend the due date to Monday, November 20, 2023. This is Plaintiffs-Appellants’ first request for an extension of time to file the Joint Appendix. Defendants-Appellees do not oppose this motion.

BearBox seeks this extension under Federal Circuit Rule 26(b)(4) to allow additional time to resolve confidentiality issues. Some of the materials in the Joint Appendix were filed under seal before the district court, and the parties are conferring on whether those materials need to remain under seal in the Joint Appendix. The Declaration of John R. Labbe is submitted in further support of this Motion.

Date: November 15, 2023

Respectfully submitted,

/s/ John R. Labbe
Benjamin T. Horton
John R. Labbe
Raymond R. Ricordati, III
Chelsea M. Murray
MARSHALL, GERSTEIN & BORUN LLP
233 South Wacker Drive
6300 Willis Tower
Chicago, IL 60606
(312) 474-6300

*Counsel for Plaintiffs-Appellants
BearBox LLC and Austin Storms*

DECLARATION OF JOHN R. LABBE

1. I am an attorney admitted to the bar of this Court, and I am a partner of the law firm Marshall, Gerstein & Borun LLP. I am one of the attorneys representing Plaintiffs-Appellants BearBox LLC and Austin Storms (collectively, “BearBox”) in this appeal.

2. I have knowledge of the facts set forth herein, and if called upon as a witness, I could testify to them under oath.

3. BearBox seeks the requested 5-day extension of time for filing the Joint Appendix because additional time is needed to resolve confidentiality issues. More specifically, some of the materials in the Joint Appendix were filed under seal before the district court, and the parties are conferring on whether those materials need to remain under seal in the Joint Appendix. A 5-day extension will provide additional time to resolve these issues and prepare the Joint Appendix according to this Court’s rules.

4. Counsel for Defendants-Appellees Lancium LLC, Michael T. McNamara, and Raymond E. Cline, Jr. (“Lancium”) have informed us that Lancium does not oppose this Motion.

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on November 15, 2023

/s/ John R. Labbe
John R. Labbe

FORM 9. Certificate of Interest

Form 9 (p. 1)
March 2023

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

CERTIFICATE OF INTEREST

Case Number 2023-1922

Short Case Caption BearBox LLC v. Lancium LLC

Filing Party/Entity Plaintiffs-Appellants BearBox LLC and Austin Storms

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 11/08/2023

Signature: /s/ Benjamin T. Horton

Name: Benjamin T. Horton

FORM 9. Certificate of Interest

Form 9 (p. 2)
March 2023

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. <input checked="" type="checkbox"/> None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. <input checked="" type="checkbox"/> None/Not Applicable
BearBox LLC		
Austin Storms		

 Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
March 2023

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

<input type="checkbox"/> None/Not Applicable	<input type="checkbox"/> Additional pages attached
Marshall Gerstein & Borun: John J. Lucas	
Ashby & Geddes: Andrew C. Mayo	

5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

Yes (file separate notice; see below) No N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

<input checked="" type="checkbox"/> None/Not Applicable	<input type="checkbox"/> Additional pages attached

FORM 19. Certificate of Compliance with Type-Volume Limitations

Form 19
July 2020

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: 2023-1922

Short Case Caption: BearBox LLC v. Lancium LLC

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because it meets one of the following:

- the filing has been prepared using a proportionally-spaced typeface and includes 134 words.
- the filing has been prepared using a monospaced typeface and includes _____ lines of text.
- the filing contains _____ pages / _____ words / _____ lines of text, which does not exceed the maximum authorized by this court's order (ECF No. _____).

Date: 11/15/2023

Signature: /s/ John R. Labbe

Name: John R. Labbe